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EXAMINER
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JOYCE, WILLIAM C

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3682

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/835,439  
Filing Date: April 17, 2001  
Appellant(s): GLAESNER ET AL.

**MAILED**

MAR 05 2007

**GROUP 3600**

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Richard P. Bauer  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed November 10, 2006 appealing from the  
Office action mailed February 21, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

**WITHDRAWN REJECTIONS**

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The claim rejection based on the teachings of Faint et al. has been withdrawn in light of applicants' arguments. Specifically, the redirector of Faint et al. is cylindrical in shape and therefore is not disposed in a plane. Accordingly, the claim rejection based on 35 USC 102 (b) has been withdrawn.

With respect to the claim rejection based on Schlereth in view of Osawa, the appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

US Patent 5,176,454	Schlereth	1/1993
US Patent 4,941,758	Osawa	7/1990

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 7-11 and 27-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlereth (US Patent 5,176,454) in view of Osawa (US Patent 4,941,758).

Schlereth discloses a flexible shoe assembly comprising: a body (16) for supporting a load, a force redirector (34), said body being integrally connected to a linear bearing arrangement, the linear bearing arrangement is formed with a bearing surface configured to slideably engage a linearly moving complimentary surface of a supported member, and a support surface (20) configured to engage a supporting member and providing adjustment of said shoe assembly during installation, said force redirector disposed in said body in a plane above said linear bearing arrangement so as

to redirect said force from a leading edge and a trailing edge of said bearing arrangement to a central area thereof.

With respect to the limitations defining the orientation of the device, such as "upper wear surface" and "lower mounting surface," it is understood the device of Schlereth can be positioned in any orientation, including an inverted orientation which meets the claim limitations.

Schlereth does not clearly teach the linear bearing arrangement having a "wear surface" but teaches a plurality of balls for reducing friction between the relatively moving components. It was well known in the art to configure a linear bearing device with the claimed wear surface. For example, the prior art to Osawa teaches a linear bearing arrangement having a wear surface (11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the linear bearing of Schlereth with a linear bearing having a wear surface, as taught by Osawa, motivation being to reduce the number of components of the device thereby reducing the cost and assembly time of the device.

With respect to claims 10 and 11, the device of Schlereth inherently includes stops for limiting the pivoting movement of the device.

With respect to claim 27, Schlereth illustrates a through hole (22) extending lengthwise through the support. In the event applicant amends the claims to more clearly define the lengthwise direction as illustrated in the instant application, the claim would be rejected because it would have been obvious to one in the art to position the

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attachment holes in any direction depending on the particular configuration of the supporting structure.

With respect to claim 29, Schlereth does not disclose the support surface as semi-cylindrical, It would have been obvious to one in the art at the time the invention was made to modify the flat support surface of Schlereth with a semi-cylindrical surface, motivation being to adapt the device for a particular application.

**(10) Response to Argument**

*Response to Section 2A (i)*

Applicant argues that the Examiner has failed to identify any body which has a "lower mounting surface configured to engage a complementary surface within said molding system and providing positioning and adjustment of said shoe assembly during installation."

This argument is not well taken because section 4 of the Final Office Action makes clear reference to the mounting surface. Specifically, the Final Office Action states "a support surface (20) configured to engage a supporting member and providing adjustment of the shoe assembly during installation" and "the device Schlereth can be positioned in any orientation, including an inverted orientation." Since the device of Schlereth can be used in an inverted orientation, the support surface (20) is considered a "lower mounting surface."

Further, the limitation "configured to engage" fails to structurally define over the prior art, and the mounting surface of Schlereth is capable of engaging a complementary surface of a molding system.

Finally, referring to the Figures, Schlereth discloses the support surface (20) having mounting holes (22) for a threaded fastener, wherein the threaded fastener provides positioning and adjustment of the shoe assembly when fastened to a complementary member.

Accordingly, the above argument is not persuasive because Schlereth teaches a "lower mounting surface configured to engage a complementary surface within said

molding system and providing positioning and adjustment of said shoe assembly during installation."

*Response to Section 2A (ii)*

Applicant argues the Examiner has failed to identify any body which has an upper wearing surface configured to slideably engage a linearly moving complimentary surface of a supported member.

This argument is not well taken because section 4 of the Final Office Action makes clear reference to the "wearing surface." Specifically, the Final Office Action states Schlereth does not teach the claimed wearing surface, but teaches a plurality of balls for reducing friction between relatively moving components. However, this limitation was not found to be inventive because it was well known in the art to use bearing surfaces configured to slideably engage a linear moving complimentary surface of a supported member. For example, the prior art to Osawa teaches a bearing arrangement having a wear surface (11). The Final Office Action provided clear motivation for replace the rolling bearing arrangement of Schlereth with a bearing having a wear surface, as taught by Osawa.

With respect to the limitation "upper" wear surface, it is again noted the orientation of the device fails to define over the prior art because the bearing device of Schlereth can be positioned in an inverted orientation.

Applicant appears to have misinterpreted the Final Office Action. Specifically, the "plurality of balls" of the Schlereth device are not considered the claimed "wearing



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surfaces." As described above, the prior art to Osawa teaches a bearing arrangement having a wear surface configured to slide on a mating surface. It would have been obvious to replace the balls of Schlereth with the wearing surface of Osawa, motivation being to reduce the number of components of the device thereby reducing the cost and assembly time of the device. Accordingly, the arguments with respect to the plurality of balls are not persuasive.

*Response to Section 2A (iii)*

As noted above, the balls 211x and 211y of Schlereth are not considered the claimed wear surface for the purpose of the claim rejection. Further, the force redirector (34) inherently redirects a linear-moving force from a leading edge and a trailing edge of the wearing surface to a central area in said body.

*Response to Sections 2B (i) and (ii)*

As noted above, the Final Office Action makes clear reference to the "wearing surface."

*Response to Section 2C (i) and (ii)*

As noted above, the Final Office Action makes clear reference to the "wearing surface."

*Response to Section 2C (iii)*

Applicant argues the Examiner has failed to identify any "fixation bore extending lengthwise through a lower support of said body." Referring to the Final Office Action, claim 27 was rejected based on threaded bores (22) extending through a portion of the body. It is noted the limitation of claim 27 corresponds to the "fixation bore" defined in claim 35, wherein the Office Action make clear reference to the threaded bores (22) as corresponding to the claimed fixation bore. Further, the Action notes the bores extend

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in a lengthwise direction, inasmuch as applicant has defined the lengthwise direction of the shoe assembly.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the linear bearing of Schlereth with a linear bearing having a wear surface, as taught by Osawa, motivation being to reduce the number of components of the device thereby reducing the cost and assembly time of the device.

Applicant argues that one in the art would not replace the more efficient ball bearings of Schlereth with a less efficient wear plate. This argument is not persuasive because certain applications may not require high efficiency, such as a low load application. However, one in the art would be motivated to reduce cost and assembly time.

The argument that the Examiner's motivation to combine the prior art references is insufficient, since, for example, the motivation "to reduce cost" would permit any reference to be combined with any other reference in a "pick-and-choose" hindsight

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approach. This is not persuasive because not every teaching reference would "reduce costs" of a device. Further, Osawa clearly states (column 2, last section) "the number of components is small and the structure is simple. Further, Osawa provides additional benefits of a slider having a wearing surface, such as, the device is "small, lightweight, easy in adjusting the gaps, and excellent in dust proof property" (column 2, lines 20-28). Accordingly, the Final Rejection is proper, including sufficient motivation to combine the teachings of Schlereth and Osawa to produce the claimed invention.

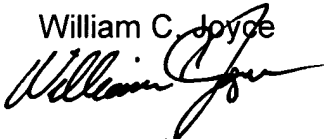
**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

William C. Joyce



Conferees:

TRH 

MC 